

**STATE OF WEST VIRGINIA
LAND SALES AND CONDOMINIUM DIVISION
BEFORE THE LAND SALES AND CONDOMINIUM DIRECTOR
CHARLESTON, WEST VIRGINIA 25305**

IN THE MATTER OF:

CASE NO.: 11-0099

**EQUITY MARKETING CORP
d/b/a RESORT EQUITY
MARKETING**

**SUMMARY ORDER TO CEASE AND
DESIST, SUSPENDING EXEMPTIONS
AND NOTICE OF RIGHT TO
HEARING**

RESPONDENT.

SUMMARY ORDER

Pursuant to the authority granted by the West Virginia Real Estate Time-Sharing Act, (hereinafter "Act")(Article 9, Chapter 36 of the West Virginia Code (2011)), the Division of Land Sales and Condominiums as administered by the Office of the West Virginia State Auditor (hereinafter "Division") has investigated the activities of the above named entity (hereinafter "Respondent"). As a result of the Division's investigation and upon due consideration thereof, the Director of the Land Sales and Condominium Division, by the authority vested in him to enforce and ensure compliance of the Act, does hereby find as follows:

RESPONDENT

1. "Equity Marketing Corp d/b/a Resort Equity Marketing" ("Equity Marketing") is a business entity with a last known location of 810West SR Suite 2101, Altamonte Springs, Florida and last known phone number of (800) 234-1345.

FINDINGS OF FACT

2. Paragraph 1 is incorporated by reference as if fully set forth herein.
3. Respondent Equity Marketing represented itself as a timeshare advertising and rental company.
4. In August 7, 2008, Equity Marketing entered into a contract with a West Virginia citizen (hereinafter "Owner") *via* telephone and represented that it would advertise rental or sale of the Owner's timeshare located in Gatlinburg Tennessee for a fee of one thousand five hundred ninety-eight dollars (\$1,598.00).

5. A contract, executed by the Owner, was required to be sent back to Equity Marketing and payment of the aforementioned fee was also required *via* credit card.
6. After Equity Marketing procured the upfront payment from the Owner, there was no further contact or communication established.
7. No payment for rental or sale, in any amount, was ever received by the West Virginia Owner, and no evidence of actual rental of the timeshare unit was furnished.

CONCLUSIONS OF LAW

8. Paragraphs 1 through 7 are incorporated by reference as if fully set forth herein.
9. Respondent Equity Marketing failed to furnish a fully completed copy of a statutorily compliant purchase contract, containing all applicable required information pertaining to the sale or resale of the time-share plan in violation of *West Virginia Code* § 36-9-5.
10. Respondent Equity Marketing failed to honor the request of a purchaser to cancel the contract pertaining to the sale or resale of the time-sharing plan violated *West Virginia Code* § 36-9-9(a).
11. Respondent Equity Marketing misrepresented the purchaser's right to cancel in violation of *West Virginia Code* § 36-9-9(b).
12. Respondent Equity Marketing failed to refund payments made by the purchaser under the contract in violation of *West Virginia Code* § 36-9-9(c).
13. Respondent Equity Marketing failed to file with the Division any and all advertising materials used for the sale or resale of time-shares in violation of *West Virginia Code* § 36-9-10(a).
14. Respondent Equity Marketing used advertising materials and/or promotional devices pertaining to the sale or resale of the time-share plan in violation of *West Virginia Code* § 36-9-10(a).
15. Respondent Equity Marketing failed to maintain statutorily compliant business records in violation of *West Virginia Code* § 36-9-11(a)-(b).
16. Respondent Equity Marketing failed to maintain statutorily required licensure as a real estate salesman, broker, or broker-salesman, pursuant to chapter forty-seven of the West Virginia code in violation of *West Virginia Code* § 36-9-18.
17. Respondent Equity Marketing failed to pay to the Division the statutorily required annual fee in violation of *West Virginia Code* § 36-9-24.

ORDER

The Director, pursuant to the powers granted in *West Virginia Code* § 36-9-1, *et. seq.*, does hereby **ORDER**:

1. Respondent summarily **CEASE AND DESIST** from soliciting and offering to sell or resell the aforesaid time-share plans or units, either directly or indirectly through officers, directors, employees, representative agent, affiliates, successors or assigns, unless and until compliance with the Act has been achieved and until further Order of the Director.

2. Respondent summarily **CEASE AND DESIST** from contacting West Virginia citizens for the purpose of offering services or advertising materials to sell or resell any time-share or time-share related interest.

3. Any exemptions from the requirements of the Act claimed by the Respondent are hereby summarily **REVOKED AND SUSPENDED** pending final determination of the proceedings herein, and until further Order of the Director pursuant to *West Virginia Code* § 36-9-23(a)-(e)(1-3).

4. Respondent **SHOW CAUSE** within fifteen (15) days after receipt of this Order, through responding to each and every paragraph set forth herein, why this Order should not be made final and permanent and why Respondent should not be ordered to offer rescission to the purchasers of its services.

5. **NOTICE** is hereby given that Respondent may be afforded a hearing in this matter if a written request is made by Respondent, and such request contains a written response to each and every paragraph contained herein. A request for hearing must be in writing and received by the Director within fifteen (15) days after receipt of this Order. If a timely request for a hearing is made, a hearing on this matter will be set for the purpose of determining whether this Order shall be modified, vacated, or made permanent.

6. If the Respondent does not timely show cause or timely request a hearing or fail to attend a duly scheduled hearing in this matter after receiving notice thereof, the allegations contained in this Order will be deemed true without further proof, Respondent shall be deemed in default, and this Order will become final and permanent without further notice to you and an administrated assessment will be imposed in accordance with *West Virginia Code* § 36-9-23(e).

7. Any violation of this Order will constitute a violation of Chapter 36, Article 9, Section 23 of the Act, and if any such violation comes to the attention of the Director, the matter will be pursued in the Circuit Court, and the Respondent may held liable for further civil or administrative penalties.

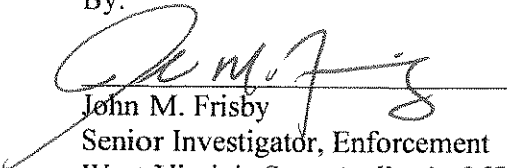
This Order does not prevent the West Virginia Land Sales and Condominium Division from seeking such other civil or criminal remedies that may be available.

ENTERED this 7th day of October 2013.

Glen B. Gainer III
Director of Land Sales and Condominiums

Lisa A. Hopkins, Esquire
Deputy Director of Land Sales Condominiums

By:


John M. Frisby
Senior Investigator, Enforcement
West Virginia State Auditor's Office
Capitol Complex, Bldg. 1, Rm. W-100
Charleston, WV 25305